

REMARKS

This Reply is responsive to the final Office Action¹ having a notification date of February 3, 2009. Claims 1-47 were presented for examination and stand rejected. Claims 1, 20, 21, 40 and 47 are independent claims and no claims are amended or canceled. Thus, claims 1-47 are pending. Reconsideration and allowance are respectfully requested.

Claim 47 is objected to. It had previously been amended and is now identified as a “previously presented” claim, wherefore appropriate correction has been made and the objection should be withdrawn.

Claims 1-11, 13-31, 33-38, 40 and 44-45 are rejected under 35 U.S.C. § 103 (a) as being un-patentable over Foster (“Target-Text Mediated Interactive Machine Translation” Machine Translation, 1997 and hereinafter referred to as “Foster”) in view of U.S. Patent No. 6,360,237 to Schulz et al. (hereinafter, “Schulz”). Claims 41 and 46 are rejected under 35 U.S.C. § 103(a) as being un-patentable over Foster in view of Schulz, and further in view of U.S. Patent No. 6,820,055 to Saindon et al. (hereinafter, “Saindon”). Claims 12, 19, 32, 39, 42, 43 and 47 are rejected under 35 U.S.C. § 103(a) as being un-patentable over Foster in view of Schulz as applied to claims 1, 21 and 40 and further in view of U.S. Patent No. 4,814,988 to Shiotani et al. (hereinafter “Shiotani”). Applicants respectfully traverse these rejections.

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicants may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicants do not automatically subscribe to, or acquiesce in, any such statement.

All independent claims are rejected under 35 U.S.C. § 103 (a) as being un-patentable over at least Foster in view of Schulz (rejection of claim 47 relies also on Shiotani). Applicants present herein a different view regarding why Foster is not adequate as a principal reference to reject these claims.

Schulz:

Schulz teaches a method for editing written text in a text editor which automatically aligns a cursor in the written text on a screen with a particular spoken word during playback of an audio recording. (abstract) The text editor is a software application. (col. 4, line 24) A human transcriptionist or user may edit the text using special edit function keys. (col. 5, lines 44-45) Thus, Schulz may show synchronization between audio and corresponding text, in the same source language, without any translation involved. There is no translation taught or suggested in Schulz.

Foster:

Foster teaches translation of text only (no audio) by a human translator in combination with a machine. Foster teaches that a human translator can start the translation of a word appearing in a source language by entering a keystroke and by entering follow-on, consecutive keystrokes. At some point after the first keystroke, the machine can suggest a completed word in the target language, presumably corresponding, or close-in-meaning, to the word in the source language. The machine's translation-offering is based on the thought process of the human translator which is reflected in his/her initial keystroke(s). In turn, the human translator considers the machine's

translation offering and either accepts the word or, if inappropriate in his/her judgment, makes the next keystroke.

Therefore, the next keystroke is, of necessity, based on (1) his/her understanding of the meaning being expressed in source language *and* (2) his/her view of the translated word offered by the machine. An inappropriate offering in his/her view necessarily serves to at least reinforce the word choice then being contemplated by the human translator, if not to actually guide him/her toward that word choice. In this manner, the machine may offer a different word candidate based on each succeeding keystroke made by the human translator. However, the human translator may not complete the word solely by his/her keystrokes because the Foster disclosure (pg 192) suggests that the machine is more likely than not to propose an acceptable word prior to the human translator finishing the translation of the word by himself/herself.

Foster Teaches a Human-Machine Translation Partnership:

Accordingly, the human translator receives the machine's input and decides whether or not to accept it. The machine is a partner in the translation effort of every word in the portion to be translated. The human translator is the judge of the accuracy or acceptability of the machine's translation and, if the translator agrees with the machine's input, he/she can then accept the machine's translation to enable the word to be completely translated possibly more quickly than otherwise. But, even if the machine's offering is rejected by the human translator as being other than the optimum translated word, he/she still uses that rejected machine input in a positive way to mentally rule-out a translation direction suggested by that rejected word as supplied by the machine. This

helps the human translator in his/her mental process to more quickly select the optimum translated word in the target language, which the human translator is seeking.

In other words, even when the Foster machine attempts to finalize a word with a less than optimum, or plainly wrong, choice in the view of the human translator, the machine is still working together with the human translator on translating each and every word. It is clear that Foster teaches a human-machine translating partnership, or joint effort, and therefore cannot read on “receiving translation actually made by the user of the portion of the audio signal.” (emphasis added) Quite differently, in Foster, the translation process is actually performed by the human-machine partnership all the time, whether or not the machine finishes a translated word correctly because translation is not only the end result, it is also the process by which the end result is reached. The relevant dictionary definition of “translation” is: “**1:** an act, process, or instance of translating: as **a:** a rendering from one language to into another; also: the product of such a rendering.” (Merriam Webster’s Collegiate Dictionary, Tenth Edition)

This instant view of Foster varies from Applicants’ earlier view of Foster and of how an application of Foster to Applicants’ claims should be analyzed. That earlier view is on the record but is superceded by this instant view which has evolved from further thought about Foster and which, Applicants respectfully submit, is far more appropriate. After all, the entire reason for the existence of Foster is to have a machine help in the translation all the time, whether or not the machine supplies words acceptable to the human translator. Even if a word is rejected by the human translator, the machine-translation effort, nevertheless, was made. Indeed, there is a possibility that the machine could, in a particular word instance, be even more correct than the human translator who

rejects a perfect translation offering which he/she didn't appreciate at that moment.

Thus, Applicants see Foster as disclosing and suggesting a machine-human translation partnership where it is not possible for Foster to read on: "receiving translation actually made by the user..." as recited in claim 1. Foster teaches translation actually made by a user-machine partnership. This does not read on Applicants' claim limitation. Applicants believe this interpretation to be the proper interpretation and view of Foster relative to Applicants' claim limitation.

Thus, Applicants' position is that Foster, taken alone or in combination with Schulz, does not read on Applicants' claim limitation: "receiving translation actually made by the user of the portion of the audio signal" as recited in claim 1, even if the human translator never accepts any translation offerings from the machine. However, Foster also discloses that it is not likely that that would happen. If Foster performs as it represents, then it can assist a human translator by completing the translation started by the human translator, possibly around 70% of the time, or can reduce the number of keystrokes needed to type target text words by approximately 70%. (Foster page 192).

This aspect of Foster's disclosure was previously presented to the Examiner in Applicants' last response filed on September 16, 2008 and must be considered by the Examiner. As noted in MPEP 2141.02(VI), a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) This information on page 192 of Foster leads away from the claimed subject matter because it says that a major portion of the translation effort can be provided by the machine as compared with the human

translator, in more than a 2:1 ratio. The overall teaching in Foster is that its human translator does not act alone, is always assisted by a translation machine and the machine finishes a translation acceptably perhaps 70% of the time. Therefore, Applicants submit that Foster cannot reasonably be relied upon to teach translation actually made by a human translator.

Schulz is not cited to teach translation and does not cure this deficiency in Foster. This Foster operation in *arguendo* combination with the audio disclosure in Schulz does not read on “receiving translation actually made by the user of the portion of the audio signal” as recited in Applicants’ claim 1 at least because such combination does not describe a translation actually made by the user [human translator]. The translation is actually made by the machine-human combination, with the machine typically providing more than twice as much translation (70%) than that provided by the human (30%), as disclosed in Foster. Furthermore, Schulz does not contribute anything about translation to the Foster-Schulz combination because it does not disclose translation, only audio transcription. Thus, this limitation of claim 1 and, therefore, claim 1 itself, is not disclosed or suggested by Foster and Schulz taken individually or in any reasonable combination. The 35 U.S.C. 103(a) rejection of claim 1 should be withdrawn and the claim allowed.

Independent claim 20 is also rejected as being un-patentable over Foster in view of Schulz. Claim 20 recites, interalia, “means for receiving translation actually made by the user of the audio signal into a second language.” (emphasis added) This claim is likewise allowable for the reasons given above with respect to claim 1. Accordingly, the

35 U.S.C § 103(a) rejection of claim 20 based on a combination of Foster in view of Schulz should be withdrawn and the claim allowed.

Independent claim 21 is also rejected as being un-patentable over Foster in view of Schulz. Claim 21 recites, interalia, “receive from the user a translation actually made by the user of the portion of the audio signal.” (emphasis added) This claim is likewise allowable for the reasons given above with respect to claim 1. Accordingly, the 35 U.S.C § 103(a) rejection of claim 21 based on a combination of Foster in view of Schulz should be withdrawn and the claim allowed.

Independent claim 40 is also rejected as being un-patentable over Foster in view of Schulz. Claim 40 recites, interalia, “a translation section that receives a translation actually made by the user of the non-text information into a second language.” (emphasis added) This claim is likewise allowable for the reasons given above with respect to claim 1. Accordingly, the 35 U.S.C § 103(a) rejection of claim 40 based on a combination of Foster in view of Schulz should be withdrawn and the claim allowed.

Independent claim 47 is rejected as being un-patentable over Foster in view of Schulz and further in view of Shiotani. Claim 47 recites, interalia, “said user actually translating said audio playback of said information thereby obtaining a translation in a second language, said user using a different section of said GUI to display said translation while making said translation.” (emphasis added) Shiotani, cited for other reasons, does not cure this deficiency of the Foster/Schulz combination. This claim is likewise allowable for the reasons given above with respect to claim 1. Accordingly, the 35 U.S.C § 103(a) rejection of claim 47 based on a combination of Foster in view of Schulz should be withdrawn and the claim allowed.

All dependent claims are allowable at least because of their respective dependencies from allowable base claims.

Claims 2-19 are dependent from claim 1 and are allowable, at least for reasons based on their dependency from an allowable base claim.

Claims 22-39 are dependent from claim 21 and are allowable, at least for reasons based on their dependency from an allowable base claim.

Claims 41-46 are dependent from claim 40 and are allowable, at least for reasons based on their dependency from an allowable base claim.

Saindon is related to automated (non-human) language translation and Shiotani is related to a machine (non-human) translation system. Therefore, Saindon and/or Shiotani, even if either or both could be combined with Foster which Applicants do not concede, do not cure the aforementioned deficiency of Foster.

In addition, Applicants do not acquiesce in the Office Action including respectfully disagreeing with the “Response to Arguments” section on pages 3-5. Applicants further maintain that Foster and Schulz are not properly combinable for reasons previously given in their response filed September 16, 2008, those reasons being incorporated by reference herein.

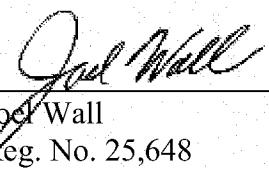
For at least these all of these reasons, a *prima facie* case of obviousness has not been established against the pending claims.

CONCLUSION

In view of the foregoing remarks, reconsideration and allowance are respectfully requested.²

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-2347 and please credit any excess fees to such deposit account.

Respectfully submitted,

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² As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.